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ON SIGNATURE PAGE]

Attorneys for Plaintiff,
Suzanne Alaei

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**SUZANNE ALAEI, Individually
And On Behalf Of All Others
Similarly Situated,**

Plaintiff,

v.

**H.J. HEINZ COMPANY, L.P.,
and KRAFT HEINZ FOODS
COMPANY,**

Defendants.

Case No.: '15CV2961 MMADHB

**CLASS ACTION COMPLAINT
FOR:**

- 1) VIOLATION OF BUSINESS & PROFESSIONS CODE § 17533.7 (CALIFORNIA FALSE “MADE IN U.S.A.” CLAIM); AND,**
- 2) VIOLATION OF BUSINESS & PROFESSIONS CODE §§ 17200, ET SEQ. (CALIFORNIA UNFAIR COMPETITION LAW).**

JURY TRIAL DEMANDED

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INTRODUCTION

- 1
- 2 1. SUZANNE ALAEI (hereinafter “Plaintiff”) brings this Class Action
- 3 Complaint for damages, injunctive relief, and any other available legal or
- 4 equitable remedies, resulting from the illegal actions of H.J. HEINZ
- 5 COMPANY, L.P. and KRAFT HEINZ FOODS COMPANY (collectively
- 6 “Heinz” and/or “Defendants”) in unlawfully labeling Heinz’s consumable
- 7 consumer packaged goods with the false designation and representation that
- 8 they are “MFD. In U.S.A.” (or some derivative thereof). The unlawfully
- 9 labeled consumable products are sold online and in various stores
- 10 throughout the United States. Plaintiff alleges as follows upon personal
- 11 knowledge as to herself and her own acts and experiences, and, as to all
- 12 other matters, upon information and belief, including investigation
- 13 conducted by her attorneys.
- 14 2. As stated by the California Supreme Court in *Kwikset v. Superior Court*
- 15 (January 27, 2011) 51 Cal.4th 310, 328-29:

16 **Simply stated: labels matter.** The marketing industry is

17 based on the premise that labels matter, that consumers

18 will choose one product over another similar product

19 based on its label and various tangible and intangible

20 qualities that may come to associate with a particular

21 source...In particular, **to some consumers**, the “Made in

22 U.S.A.” label matters. A range of motivations may fuel

23 this preference, from the desire to support domestic jobs

24 to beliefs about quality, to concerns about overseas

25 environmental or labor conditions, to simple patriotism.

26 The Legislature has recognized the materiality of this

27 representation by specifically outlawing deceptive and

28 fraudulent “Made in America” representations. (Cal. Bus. & Prof. Code section 17533.7; see also Cal. Civ. Code § 1770, subd. (a)(4) (prohibiting deceptive representations of geographic origin)). The object of section 17533.7 “is to protect consumers from being misled when they purchase products in the belief that they are advancing

1 the interest of the United States and its industries and
2 workers...” (emphasis added).

- 3 3. The “MFD. In U.S.A.” claim (or some derivative thereof) is prominently
4 printed on the Defendant’s consumable products.¹ Contrary to Defendants’
5 representation and in violation of California law, Defendants’ consumable
6 products, including the specific Product purchased by Plaintiff, include
7 foreign ingredients.

8 **JURISDICTION AND VENUE**

- 9 4. This Court has jurisdiction over this matter pursuant to the Class Action
10 Fairness Act (CAFA) because the amount in controversy in this matter
11 exceeds \$5,000,000.00 as to all putative Class members, inclusive of
12 attorneys’ fees and costs, and injunctive relief. 28 U.S.C. Sections 1332(d),
13 1453, and 1711-1715.
- 14 5. Venue is proper in the United States District Court for the Southern District
15 of California pursuant to 28 U.S.C. § 1391 for the following reasons: (i)
16 Plaintiff resides in the County of San Diego, State of California, which is
17 within this judicial district; (ii) the conduct complained of herein occurred
18 within this judicial district; and, (iii) many of the acts and transactions giving
19 rise to this action occurred in this district because Heinz:

- 20 (a) is authorized to conduct business in this district and has
21 intentionally availed itself of the laws and markets within this
22 district;
- 23 (b) does substantial business within this district;
- 24 (c) is subject to personal jurisdiction in this district because it has

25 ¹ Plaintiff seeks class wide relief on behalf of all purchasers of any Heinz products
26 that are substantially similar, as in consumable consumer packaged goods, to the
27 Product purchased by Plaintiff and labeled as “MFD. In U.S.A.,” or some
28 derivative thereof, that are foreign-made or incorporates foreign-made
components (in violation of California law), not only the specific Product
purchased by Plaintiff.

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FACTUAL ALLEGATIONS

- 1
- 2 14.Plaintiff re-alleges and incorporates by reference all of the above paragraphs
- 3 of this Complaint as though fully stated herein.
- 4 15.Heinz manufactures, markets and/or sells various consumable consumer
- 5 packaged goods such as sauces and condiments that have been and are
- 6 currently still represented as “MFD. In U.S.A.” (or some derivative thereof).
- 7 Heinz makes these representations on the consumable products themselves,
- 8 including the Product purchased by Plaintiff.
- 9 16.Contrary to the representation on the products’ labels, Defendants’ products
- 10 are wholly and/or substantially manufactured or produced with components
- 11 that are manufactured, grown and/or sourced outside of the United States.
- 12 17.Based upon information and belief, the offending Product purchased by
- 13 Plaintiff contains foreign ingredients.
- 14 18.Based upon information and belief, the offending Product purchased by
- 15 Plaintiff, and presumably all of Defendant’s products that are substantially
- 16 similar and contain foreign ingredients, are wholly or partially made of
- 17 and/or manufactured with foreign materials, contrary to Defendant’s “MFD.
- 18 In U.S.A.” representations (or some derivative thereof) (“Class Product/s”).
- 19 19.Heinz marketed, and continue to market, and represent to the general public
- 20 via its Class Products’ labels that Defendants’ products are “MFD. In
- 21 U.S.A.” As such, Defendants fraudulently concealed, and continue to
- 22 conceal, the material facts at issue in this matter by misrepresenting to the
- 23 general public the true source of the component parts in the offending Class
- 24 Products. Heinz possesses superior knowledge of the true facts that were not
- 25 disclosed, thereby tolling the running of any applicable statute of limitations.
- 26 20.Consumers are particularly vulnerable to these deceptive and fraudulent
- 27 practices. Most consumers possess limited knowledge of the likelihood that
- 28 products, including the component products therein, claimed to be made in

1 the United States are in fact manufactured in foreign countries. This is a
2 material factor in many individuals' purchasing decisions, as they believe
3 they are purchasing superior goods, produced under American standards and
4 laws, while supporting American companies and American jobs.

5 21. Consumers generally believe that "MFD. In U.S.A." products are of higher
6 quality than their foreign-manufactured counterparts and that they are
7 produced under higher standards, including, but not limited to, higher
8 environmental and labor laws. Due to Heinz's scheme to defraud the
9 market, members of the general public were fraudulently induced to
10 purchase Heinz's products at inflated prices.

11 22. On information and belief, Defendants charged excess monies for its Class
12 Products, including the Product purchased by Plaintiff, in comparison to
13 Defendants' competitors during the entirety of the relevant four-year
14 statutory time period, based on the false "MFD. In U.S.A." designation (or
15 some derivative thereof). California laws are designed to protect consumers
16 from such false representations and predatory conduct. Defendants' scheme
17 to defraud consumers for its own self-interest and monetary gain is ongoing
18 and will victimize consumers daily for the foreseeable future unless altered
19 by judicial intervention.

20 23. In November of 2015, Plaintiff purchased Defendant's Heinz 57 Sauce (the
21 "Product") from an Albertsons grocery store located on 1133 Mission Road
22 in Fallbrook, California. At the time of Plaintiff's purchase, the offending
23 Product was described as manufactured in the U.S.A., when the Product
24 actually was made and/or contained components made outside of the United
25 States. As such, Defendant is not entitled to lawfully make representations
26 that the Product was "MFD. In U.S.A."

27 24. Plaintiff paid \$6.29 for the Product.
28

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1 25. In making the decision to purchase Defendants' Product, Plaintiff relied
2 upon the advertising and/or other promotional materials prepared and
3 approved by Heinz and its agents and disseminated through its Class
4 Products' packaging containing the misrepresentations alleged herein. Had
5 Plaintiff been made aware that the Product was not actually "MFD. In
6 U.S.A.," Plaintiff would not have purchased the Product.

7 26. Plaintiff suffered an "injury in fact" because Heinz took Plaintiff's money as
8 a result of Heinz's false "MFD. In U.S.A" designation set forth on the
9 Product and elsewhere.

10 27. In each case when Plaintiff and putative Class members purchased a Class
11 Product, they relied upon Heinz's "MFD. In U.S.A." representation (or
12 some derivative thereof) in their purchasing decision, which is typical of
13 most U.S. consumers. Consequently, they were deceived as a result of
14 Defendants' actions. Plaintiff believed at the time she purchased the Product
15 that she was purchasing a superior quality product, supporting U.S. jobs and
16 the U.S. economy, and also supporting ethical working conditions.

17 28. Component parts made in the U.S.A. are subject to strict regulatory
18 requirements, including but not limited to environmental, labor, and safety
19 standards. Foreign made component parts are not subject to the same U.S.
20 standards and as a result can be potentially much more dangerous to
21 consumers, especially when ingested like Defendants' consumable products.
22 Further, foreign made component parts are also generally of lower quality
23 than their U.S. made counterparts, and routinely less reliable and less
24 durable than their U.S. made counterparts.

25 29. Consequently, Defendants' Class Products containing the foreign
26 ingredients, including the Product purchased by Plaintiff, are of inferior
27 quality, potentially more dangerous and less reliable, as Defendants falsely
28 represented that these products are "MFD. In U.S.A." This results in lower

1 overall customer satisfaction than if the products were truly “MFD. In
2 U.S.A.” and/or consisting of component parts made in the United States.

3 30. On information and belief, Defendants’ products containing the foreign
4 ingredients, including the Product purchased by Plaintiff, are not worth the
5 purchase price paid by Plaintiff and putative Class members. The precise
6 amount of damages will be proven at the time of trial, in large part, by expert
7 testimony.

8 31. Defendants’ products contain various amounts of turmeric, tamarind extract,
9 and jalapenos, among other ingredients in Defendants’ products, are not
10 from the United States.

11 32. Plaintiff and Class members were injured as a result of Heinz’s false “MFD.
12 In U.S.A.” representations that are at issue in this matter.

13 **CLASS ACTION ALLEGATIONS**

14 33. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
15 of this Complaint as though fully stated herein.

16 34. Plaintiff brings this action individually and on behalf of all others similarly
17 situated against Defendants and each of them, pursuant to Federal Rules of
18 Civil Procedure, Rules 23(a), 23(b)(1), 23(b)(2) and 23(b)(3).

19 35. Plaintiff represents, and is a member of the California Class (“the Class”)
20 consisting of:

21
22 All persons within California who purchased one or more
23 of Defendants’ consumable consumer packaged good
24 products regardless of brand under which Defendants
25 marketed the product, that were advertised with “MFD.
26 In U.S.A.” (or some derivative thereof), that were
27 foreign-made and/or composed of foreign-made
28 component parts, within the four years prior to the filing
of the Complaint.

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1 36. The “Class Period” means four years prior to the filing of the Complaint in
2 this action.

3 37. **Ascertainability.** Heinz and its employees and/or agents are excluded from
4 the Class. Plaintiff does not know the number of members in the Class, but
5 Plaintiff currently believes that there are hundreds of thousands, if not more,
6 members of the Class within the State of California. Because of the nature of
7 Defendants’ products, Defendants and Defendants’ distributors must keep
8 detailed and accurate records of distribution in order to accurately and
9 effectively execute a recall if so ordered by the Food and Drug
10 Administration or any other organization. Therefore, the members of the
11 Class are ascertainable through Defendants’ records and/or Defendants’
12 agents’ records regarding retail and online sales, as well as through public
13 notice. This matter should therefore be certified as a Class action to assist in
14 the expeditious litigation of this matter.

15 38. **Numerosity.** The numerosity requirement of Fed. R. Civ. P. Rule 23(a)(1) is
16 satisfied for the aforementioned Class because the members of the Class are
17 so numerous and geographically disbursed that joinder of all Class members
18 is impractical and the disposition of their claims in the Class action will
19 provide substantial benefits both to the parties and to the court.

20 39. ***Existence and Predominance of Common Questions of Law and Fact.***

21 There is a well-defined community of interest in the questions of law and
22 fact involved affecting the parties to be represented. Common questions of
23 fact and law exist in this matter that predominate over questions that may
24 affect individual Class members, satisfying the requirement of Fed. R. Civ.
25 P., Rule 23(a)(2), including, but not limited to, the following:

- 26 a. Whether Defendants committed the wrongful conduct alleged herein;
27 b. Whether Defendants’ acts, transactions, or course of conduct
28 constitute the violations of law alleged herein;

- c. Whether the members of the Class sustained and/or continue to sustain damages attributable to Defendants’ conduct, and, if so, the proper measure and appropriate formula to be applied in determining such damages;
- d. Whether Defendants’ other products contain the same of substantially similar false representations;
- e. Whether the members of the Class are entitled to injunctive and/or any other equitable relief.

40. **Typicality.** Plaintiff’s claims are typical of the claims of all other members of the Class and involve the same violations of law by Defendant as other Class members’ claims. Plaintiff and members of the Class also sustained damages arising out of Defendants’ common course of conduct complained herein. Accordingly, Plaintiff satisfies the “typicality” requirement of Fed. R. Civ. P., Rule 23(a)(3) with respect to the Class.

41. **Adequacy of Representation.** As a person who purchased one or more of Defendants’ products, that were advertised with “MFD. In U.S.A.” (or some derivative thereof), but contain foreign-made ingredients and/or composed of foreign-made component parts, Plaintiff is asserting claims that are typical of the Class. Plaintiff will fairly and adequately represent and protect the interests of other members of the Class in that Plaintiff has no interests antagonistic to any member of the Class. Further, Plaintiff has retained counsel experienced in handling class action claims and claims involving violations of the consumer laws, and specifically violations of the California Business and Professions Code. Thus, Fed. R. Civ. P., Rule 23(a)(4) is satisfied.

42. **Superiority.** A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Heinz to comply with California law. The interest of Class members in

1 individually controlling the prosecution of separate claims against Heinz is
2 small because the damages suffered by individual members of the Class may
3 be minimal. As a result, the expense and burden of litigation would prevent
4 class members from individually redressing the wrongs done to them. A
5 representative class action is both the appropriate vehicle by which to
6 adjudicate these claims and is essential to the interests of justice.
7 Furthermore, a class action regarding the issues presented in this matter
8 creates no significant problems of manageability. Therefore, the superiority
9 and manageability requirements of 23(b)(3) are satisfied.

10 43. This suit seeks only damages and injunctive relief for recovery of economic
11 injury on behalf of the Class, and it expressly is not intended to request any
12 recovery for personal injury and claims related thereto. Plaintiff reserves the
13 right to expand the Class definition to seek recovery on behalf of additional
14 persons as warranted as facts are learned in further investigation and
15 discovery.

16 44. Plaintiff and members of the putative Class have suffered “injury in fact”
17 and have lost money or property as a result of Defendants’ unfair
18 competition, as more fully set forth herein. Plaintiff and members of the
19 putative Class have been injured as they relied on Defendants’ intentional
20 misrepresentation and were induced into purchasing, purchasing more of,
21 and overpaying for Defendants’ Class Products. Plaintiff and members of the
22 Class have been injured, as had they been made aware that the product was
23 not actually “MFD. In U.S.A.,” they would not have purchased the product.
24 In other words, Plaintiff and members of the Class would not have
25 purchased Defendants’ Class Products, but for the “MFD. In U.S.A.”
26 representations (or some derivative thereof) on Defendants’ products’ labels.

27 45. Plaintiff and the members of the Class have all suffered irreparable harm as
28 a result of the Defendants’ unlawful and wrongful conduct. Absent a

1 representative class action, members of the Class will continue to face the
2 potential for irreparable harm described herein. In addition, these violations
3 of law will be allowed to proceed without remedy and Defendants will likely
4 continue such illegal conduct. Because of the size of the individual Class
5 member's claims, few, if any, Class members could not afford to seek legal
6 redress for the wrongs complained of herein. Furthermore, even if separate
7 actions could be brought by individual purchasers, the resulting multiplicity
8 of lawsuits would cause undue hardship and expense for both the Court and
9 the litigants, as well as create the risk of inconsistent rulings and
10 adjudications that might be dispositive of the interests of similarly situated
11 purchasers, thereby substantially impeding purchasers' ability to protect
12 their interests, while establishing incompatible standards of conduct for
13 Defendants. Thus, the proposed Class satisfy the requirements of Fed. R.
14 Civ. P., Rule 23(b)(1).

15 46. Heinz has acted and/or refused to act on grounds generally applicable to the
16 Plaintiff and other members of the Class, thereby rendering class
17 certification and final injunctive relief and corresponding declaratory relief
18 with respect to members of the Class as a whole appropriate. Thus,
19 certification is proper under Fed. R. Civ. P. Rule 23(b)(2).

20 47. As discussed above, numerous common questions of fact and law exist in
21 this matter. These questions predominate over the individual questions
22 presented in this action. Thus, the predominance requirement of Fed. R.
23 Civ. P. Rule 23(b)(3) is satisfied.

24 48. A class action is a superior method for the fair and efficient adjudication of
25 this controversy. Class-wide damages are essential to induce Heinz to
26 comply with California law. The interest of Class members in individually
27 controlling the prosecution of separate claims against Heinz is small because
28 the damages suffered by individual members of the Class may be minimal.

1 As a result, the expense and burden of litigation would prevent class
2 members from individually redressing the wrongs done to them. A
3 representative class action is both the appropriate vehicle by which to
4 adjudicate these claims and is essential to the interests of justice.
5 Furthermore, a class action regarding the issues presented in this matter
6 creates no significant problems of manageability. Therefore, the superiority
7 and manageability requirements of 23(b)(3) are satisfied.

8 **FIRST CAUSE OF ACTION**

9 **VIOLATION OF BUSINESS & PROFESSIONS CODE**

10 **BUS. & PROF. CODE, SECTION 17533.7**

11 49. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
12 of this Complaint as though fully stated herein.

13 50. Business & Professions Code § 17533.7 provides:

14
15 It is unlawful for any person, firm, corporation or
16 association to sell or offer for sale in this State any
17 merchandise on which merchandise or on its container
18 there appears the words “Made in U.S.A.,” “Made in
19 America, “ U.S.A.,” or similar words when the
20 merchandise or any article, unit, or part thereof, has been
entirely or substantially made, manufactured, or
produced outside of the United States.

21 51. Heinz violated Bus. & Prof. Code § 17533.7 by selling and offering to sell
22 products in the State of California with the “MFD. In U.S.A.” country of
23 origin designation (or some derivative thereof) as fully set forth herein. The
24 products at issue in this matter are wholly and/or substantially manufactured
25 outside of the United States and/or contain ingredients that are manufactured
26 outside of the United States in violation of California law.

27 52. On information and belief, Defendants’ violations of Bus. & Prof. Code §
28 17533.7 as set forth herein were done with awareness of the fact that the

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1 conduct alleged was wrongful and was motivated solely for Defendants’
2 self-interest, monetary gain and increased profit. Plaintiff further alleges that
3 Defendants committed these acts knowing the harm that would result to
4 Plaintiff and Defendants engaged in such unfair and deceptive conduct
5 notwithstanding such knowledge.

6 53. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
7 Heinz as a result of Heinz’ false “MFD. In U.S.A.” representations set forth
8 on their products.

9 54. As a direct and proximate result of Defendants’ violations of Bus. & Prof.
10 Code § 17533.7, Plaintiff and the Class are entitled to restitution of excess
11 monies paid to Defendants by Plaintiff and the Class relating to the false
12 “MFD. In U.S.A.” representations (or some derivative thereof) set forth on
13 the Defendants’ products.

14 55. In prosecuting this action for the enforcement of important rights affecting
15 the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is
16 available to a prevailing plaintiff in class action cases such as this matter.

17 **SECOND CAUSE OF ACTION**

18 **VIOLATION OF BUSINESS & PROFESSIONS CODE**

19 **BUS. & PROF. CODE, SECTION 17200, ET SEQ.**

20 56. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
21 of this Complaint as though fully stated herein.

22 57. Plaintiff and Defendants are each “person[s]” as defined by California
23 Business & Professions Code § 17201. California Business & Professions
24 Code § 17204 authorizes a private right of action on both an individual and
25 representative basis.

26 58. “Unfair competition” is defined by Business and Professions Code Section §
27 17200 as encompassing several types of business “wrongs,” including: (1)
28 an “unlawful” business act or practice, (2) an “unfair” business act or

1 practice, (3) a “fraudulent” business act or practice, and (4) “unfair,
 2 deceptive, untrue or misleading advertising.” The definitions in § 17200 are
 3 drafted in the disjunctive, meaning that each of these “wrongs” operates
 4 independently from the others.

5 59. By and through Defendants’ conduct alleged in further detail above and
 6 herein, Defendants engaged in conduct which constitutes unlawful, unfair,
 7 and/or fraudulent business practices, and unfair, deceptive, untrue or
 8 misleading advertising prohibited by Bus. & Prof. Code § 17200 et seq.

9 **A. “Unlawful” Prong**

10 60. Beginning at a date currently unknown through the time of this Complaint,
 11 Heinz has committed acts of unfair competition, including those described
 12 above, by engaging in a pattern of “unlawful” business practices, within the
 13 meaning of Bus. & Prof. Code § 17200 et seq. by manufacturing,
 14 distributing, and/or marketing Heinz’s products with a false country of
 15 origin designation, in violation of Section 17533.7 by falsely representing
 16 that the products referenced herein are “MFD. In U.S.A.” when Heinz’s
 17 products are in fact foreign-made and/or composed of component parts
 18 manufactured and/or grown outside of the United States.

19 **B. “Unfair” Prong**

20
 21 61. Beginning at a date currently unknown and continuing up through the time
 22 of this Complaint, Heinz has committed acts of unfair competition that are
 23 prohibited by Bus. & Prof. Code section 17200 et seq. Heinz engaged in a
 24 pattern of “unfair” business practices that violate the wording and intent of
 25 the statutes by engaging in conduct and practices that threaten an incipient
 26 violation of law/s or violate the policy or spirit of law/s by manufacturing,
 27 distributing, and/or marketing Heinz’s products with a false country of
 28 origin designation, in violation of Section 17533.7 by falsely representing

1 that the products referenced herein are “MFD. In U.S.A.” when Heinz’s
2 products are in fact foreign-made and/or composed of component parts
3 manufactured and/or grown outside of the United States.

4 62. Alternatively, Heinz engaged in a pattern of “unfair” business practices that
5 violate the wording and intent of the abovementioned statute/s by engaging
6 in practices that are immoral, unethical, oppressive or unscrupulous, the
7 utility of such conduct, if any, being far outweighed by the harm done to
8 consumers and against public policy by manufacturing, distributing, and/or
9 marketing Heinz’s products with a false country of origin designation, in
10 violation of Section 17533.7 by falsely representing that the products
11 referenced herein are “MFD. In U.S.A.” when Heinz’s products are in fact
12 foreign-made and/or composed of component parts manufactured and/or
13 grown outside of the United States.

14 63. Alternatively, Heinz engaged in a pattern of “unfair” business practices that
15 violate the wording and intent of the abovementioned statute/s by engaging
16 in practices, including manufacturing, distributing, marketing, and/or
17 advertising Heinz’s products with a false country of origin designation, in
18 violation of Section 17533.7 by falsely representing that the products
19 referenced herein are “MFD. In U.S.A.,” wherein: (1) the injury to the
20 consumer was substantial; (2) the injury was not outweighed by any
21 countervailing benefits to consumers or competition; and (3) the injury was
22 not of the kind that consumers themselves could not have reasonably
23 avoided.

24 C. “Fraudulent” Prong

25 64. Beginning at a date currently unknown and continuing up through the time
26 of this Complaint, Heinz engaged in acts of unfair competition, including
27 those described above and herein, prohibited and in violation of Bus. & Prof.
28

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1 Code § 17200 et seq., by engaging in a pattern of “fraudulent” business
2 practices within the meaning of Bus. & Prof. Code § 17200 et seq, by
3 manufacturing, distributing, and/or marketing Defendants’ products with a
4 false country of origin designation, in violation of Section 17533.7 by
5 falsely representing that the products referenced herein are “MFD. In
6 U.S.A.” when Heinz’s products are in fact foreign-made and/or composed of
7 component parts manufactured and/or grown outside of the United States.

8 65.Plaintiff reserves the right to allege further conduct that constitutes other
9 fraudulent business acts or practices. Such conduct is ongoing and continues
10 to this date.

11 **D. “Unfair, Deceptive, Untrue or Misleading Advertising” Prong**

12 66.Defendants’ advertising is unfair, deceptive, untrue or misleading in that
13 consumers are led to believe that Defendants’ products are “MFD. In
14 U.S.A.” and that therefore they are of superior quality and workmanship,
15 and that they were produced according to U.S. standards and laws when in
16 fact they are not entirely “MFD. In U.S.A.”

17 67.Plaintiff, a reasonable consumer, and the public would be likely to be, and,
18 in fact were, deceived and mislead by Defendants’ advertising as they
19 would, and did, interpret the representation in accord with its ordinary usage,
20 that the products were actually entirely manufactured by Defendants in the
21 USA.

22 68.Defendants’ unlawful, unfair, and fraudulent business practices and unfair,
23 deceptive, untrue or misleading advertising presents a continuing threat to
24 the public in that Defendants continues to engage in unlawful conduct
25 resulting in harm to consumers.

26 69.Defendants engaged in these unlawful, unfair, and fraudulent business
27 practices motivated solely by Defendants’ self-interest with the primary
28

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1 purpose of collecting unlawful and unauthorized monies from Plaintiff and
2 all others similarly situated; thereby unjustly enriching Defendants.

3 70. Such acts and omissions by Defendants are unlawful and/or unfair and/or
4 fraudulent and constitute a violation of Business & Professions Code section
5 17200 et seq. Plaintiff reserves the right to identify additional violations by
6 Defendants as may be established through discovery.

7 71. As a direct and proximate result of the aforementioned acts and
8 representations described above and herein, Defendants received and
9 continues to receive unearned commercial benefits at the expense of their
10 competitors and the public.

11 72. As a direct and proximate result of Defendants' unlawful, unfair and
12 fraudulent conduct described herein, Defendants have been and will
13 continue to be unjustly enriched by the receipt of ill-gotten gains from
14 customers, including Plaintiff, who unwittingly provided money to
15 Defendants based on Defendants' fraudulent "MFD. In U.S.A."
16 representations when Defendants' products are in fact foreign-made and/or
17 composed of component parts manufactured and/or grown outside of the
18 United States.

19 73. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
20 Defendants as a result of Defendants' false "MFD. In U.S.A."
21 representations set forth on the Defendants' products.

22 74. In prosecuting this action for the enforcement of important rights affecting
23 the public interest, Plaintiff seeks the recovery of attorneys' fees, which is
24 available to a prevailing plaintiff in class action cases such as this matter.

25 **AMENDMENT TO SEEK CLRA RELIEF**

26 75. Should the Defendants not comply with Plaintiff's demand letter Pursuant
27 to California Civil Code § 1782, which was mailed via United States Postal
28 Service (return receipt requested) to Defendants on or about December 11,

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1 2015, Plaintiff intends to amend this Complaint to include a Consumers
2 Legal Remedies Act as a cause of action.

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiff respectfully requests the Court grant Plaintiff and
5 the Class members the following relief against Defendants and each of them:

- 6 • That the Court determine that this action may be maintained as a Class
7 Action by certifying this case as a Class Action;
- 8 • That the Court certify Plaintiff to serve as the Class representative in this
9 matter;
- 10 • That Defendants’ wrongful conduct alleged herein be adjudged and
11 decreed to violate the consumer protection statutory claims asserted
12 herein;
- 13 • That Plaintiff and each of the other members of the Class recover the
14 amounts by which Defendants have been unjustly enriched;
- 15 • That Defendants be enjoined from continuing the wrongful conduct
16 alleged herein and required to comply with all applicable laws;
- 17 • That Plaintiff and each of the other members of the class recover their
18 costs of suit, including reasonable attorneys’ fees and expenses as
19 provided by law; and,
- 20 • That Plaintiff and the members of the Class be granted any other relief the
21 Court may deem just and proper.

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TRIAL BY JURY

76.Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled, and demands, a trial by jury.

Dated: December 31, 2015

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ ABBAS KAZEROUNIAN
ABBAS KAZEROUNIAN, ESQ.
ATTORNEYS FOR PLAINTIFF

ADDITIONAL PLAINTIFF’S COUNSEL

HYDE & SWIGART

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COSTA MESA, CA 92626**

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SUZANNE ALAEI, Individually And On Behalf Of All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff San Diego, California (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kazerouni Law Group, APC
245 Fischer Ave., Suite D1, Costa Mesa, CA 92626
Telephone: (800) 400-6808

DEFENDANTS

H.J. HEINZ COMPANY, L.P., and KRAFT HEINZ FOODS COMPANY

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'15CV2961 MMADHB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Cal. Bus. & Prof. Code § 17533.7 and 17200 et seq.
Brief description of cause: California False "Made In The USA" Claim; California Unfair Competition Law

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 12/31/2015 SIGNATURE OF ATTORNEY OF RECORD /s/ Abbas Kazerounian

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.